potent antigen-presenting cells which, when activated, can provide a more potent immune response and, hence, more effective immunization against an antigen. Indeed, mice treated with Flt3-L demonstrated a potent anti-tumor response to implanted fibrosarcoma tumor cells (see Example 3, pages 14-16 of the present specification). The claimed invention exploits this property of Flt3-L to augment immune responses to cancers and neoplasms.

II. Incorporation By Reference and Rejection Under 35 U.S.C. § 112

The Examiner has objected to the amendment to the specification to recite material previously included by reference as improper because no affidavit or declaration was filed along with the amendment. Applicants respectfully submit that no affidavit or declaration is required.

M.P.E.P. § 608.01(p) provides guidance on the Office requirements regarding incorporation by reference of essential material. The second paragraph of section 608.01(p) I.A.1 states:

> If an application as filed incorporates essential material by reference to a U.S. patent or a pending and commonly owned U.S. application, applicant may be required prior to examination to furnish the Office with a copy of the referenced material together with an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the copy consists of the same material incorporated by reference in the referencing application. **However, if a copy of a printed U.S. patent is furnished, no affidavit or declaration is required.** (emphasis added)

In this case, where Applicants have incorporated by reference to an issued U.S. patent, the M.P.E.P. states explicitly that no affidavit or declaration is necessary.

Applicants enclose herewith a copy of U.S. Patent No. 5,554,512. The incorporated material can be found in this issued patent at, for example, claims 1, 5, 6, 10, 14, and 18.

In addition, Applicants enclose a sequence listing in compliance with 37 C.F.R. §1.821 *et seq.* Therefore, Applicants request that the objection to the specification and the rejection under 35 U.S.C. § 112 be withdrawn.

III. Rejection Under 35 U.S.C. § 102(a) and/or (e)

Claims 6, 7, 20 and 40-43 are rejected under 35 U.S.C. § 102(a) and/or (e) as anticipated by U.S. Patent No. 5,554,512 to Lyman *et al.* The Examiner states that the method taught by the '512 patent is inherently the same as the claimed method. Applicants submit that the rejection has been mooted by the amendment to claims 6 and 7 to recite the

further step of administering an antigen to the patient with a neoplastic and/or cancerous disease. Accordingly, withdrawal of the rejection is respectfully requested.

CONCLUSION

In view of the foregoing remarks, Applicants submit that the claims of the present application are in condition for allowance and respectively request a notice to that effect. If the Examiner believes that any issues outstanding could be resolved by way of a telephone conference, Applicants invite the Examiner to telephone the undersigned at (206) 470-4847.

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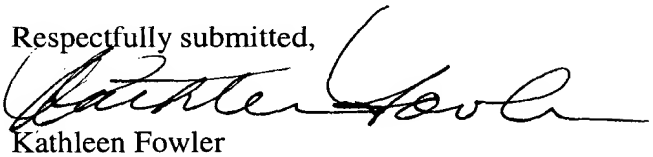
Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date indicated below.

Date: October 17, 2000 Signed: Camilla C. Edwards

bj122302 10/16/00